

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.946 OF 2006

.....
OFFICE NOTES, OFFICE
MEMORANDA OF CORAM,
APPEARANCES, COURT'S
ORDERS OR DIRECTIONS
AND REGISTRAR'S ORDERS
.....

COURT'S OR
JUDGE'S ORDER

Ms. Leela D. Lalu, for the
Petitioner.
Mr. A.S. Shitole, APP, for
Respondent No.6.

CORAM : A.S.OKA, J.
DATE : AUGUST 21, 2006.

P.C.:

1. Heard Advocate appearing for
the Petitioner.

2. The Petitioner is the
complainant who filed private
complaint alleging commission of
offence under Section 458, 341,
352, 365, 506, 511 read with
Section 34 of the Indian Penal
Code. The private complaint was
filed in the year 1998.

3. The learned Magistrate issued

process only against accused
nos.2 to 5 for the offences
punishable under Section 342,352,
365, 506 read with Section 34 of
the Indian Penal Code. The order
passed by the learned Magistrate
has been confirmed by the
Sessions Court in Revision.

4. The learned Advocate for the
Petitioner submitted that the
process ought to have been issued
for offence of house breaking and
order issuing process could not
have been denied only on the
ground that there was a gross
delay in filing complaint. She
submitted that the Petitioner was
continuously approaching various
authorities till the date on
which complaint was filed. She
submitted that prima-facie case
was made out for issuing process
for all the offences alleged in
complaint. She submitted that

process ought to have been issued even as against the accused No.1. She placed reliance on order passed by the learned City Civil Court on 15th February 1979.

5. I have considered the submissions. The learned Magistrate declined to issue process on the basis of the incident of 1978 in a complaint filed in the year 1998. However, in respect of the incident which took place in the year 1998, the process has been ordered to be issued. The learned Judge has not issued process as against accused No.1 after considering the statement of the Petitioner recorded by the Enquiry Officer in which the Petitioner has not ascribed any role to the accused No.1 in the incident of 25th August 1998.

6. Considering the observations made by the Courts below, no case is made out for entertaining the Petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973.

7. Petition is rejected.

JUDGE